

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Assm. Rev. & Tax. Com. Analyst: Jeff Garnier Bill Number: AB 2893
Related Bills: See Legislative History Telephone: 845-5322 Introduced Date: March 9, 2000
Attorney: Patrick Kusiak Sponsor: Franchise Tax Board

SUBJECT: Partial Conformity of Exempt law to Federal Law

SUMMARY

This bill would eliminate California's "stand alone" Revenue and Taxation Code sections relating to exempt organizations and conform "by reference" to the Internal Revenue Code sections relating to exempt organizations. The net effect is no change to the present California exempt terms and concepts.

EFFECTIVE DATE

This bill would become effective January 1, 2001, and would apply as of January 1, 2001.

LEGISLATIVE HISTORY

SB 2176 (2000) contains several of the Franchise Tax Board's legislative proposals, including the proposal contained in this bill.

SPECIFIC FINDINGS

Current federal law in IRC Section 501 lists the various types of organizations that are exempt from taxation under federal law. IRC Section 502 defines a "feeder organization." IRC Section 504 provides for the status of an organization after it ceases to qualify for exempt status because of substantial lobbying or political activities. IRC Section 4911 imposes an excise tax on exempt organizations that expend a specified excess amount for the purpose of influencing legislation.

Current state law in Revenue and Taxation Code (R&TC) Sections 23701a through 23701z lists the various organizations that, upon application and approval by the Franchise Tax Board, are exempt from taxation under the Bank and Corporation Tax Law. The descriptions of 15 different organizations exempt from tax under California law are, with minor exceptions, the same as the descriptions of 15 organizations exempt from tax under federal law. R&TC Section 23702 is substantially the same as IRC Section 502, which defines a "feeder organization." R&TC Section 23704.6 is substantially the same as IRC Section 504 relating to the status of an organization no longer exempt because of its political lobbying activities. R&TC Section 23740 uses definitions contained in IRC Section 4911, but does not conform to the excise tax imposed on excess expenditures to influence legislation.

Board Position:

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<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> </u> PENDING

Department Director

Date

Alan Hunter for GHG

3/30/00

California's conformity to the above items is thus achieved through "stand alone" language that is substantially the same as parallel provisions of federal law.

This bill would conform California exempt organization terms and concepts to the IRC exempt organizations statutes by reference to the federal enumerated sections and subsections. This bill would preserve the present law differences between state and federal exempt law. The amendments to California law proposed by **this bill** are non-substantive and would not change California law.

Policy Considerations *

Conforming to federal terms and concepts by reference would clarify that federal and state laws related to exempt organizations terms and concepts are the same where the current R&TC language is substantially identical to current federal law, thereby reducing potential confusion in this area.

The change would be in keeping with the spirit Section 19582 of the Taxpayers' Bill of Rights, which requires the Franchise Tax Board to ease taxpayers' compliance burden by allowing taxpayers to utilize figures from their federal tax return in the preparation of their California return.

Technical Considerations

The bill contains two typographical errors. On page 12, line 23, the word "pubic" should be "public" and on page 16, line 7, the citation "Section 501a(c)(3)" should read "Section 501(c)(3)".

FISCAL IMPACT

Departmental Costs

Because the bill would make only technical amendments, the bill would only require modification to the forms and would not significantly increase departmental costs.

Tax Revenue Estimate

This bill would not impact revenue.

BOARD POSITION

On December 16, 1999, the Board agreed to sponsor the language contained in this bill.